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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,642	06/27/2001	Kenneth H. Abbott	MS320734.05/MSFTP1899USD	1958
27195	7590	04/29/2009	EXAMINER	
TUROCY & WATSON, LLP			CLOUD, JOIYA M	
127 Public Square				
57th Floor, Key Tower			ART UNIT	PAPER NUMBER
CLEVELAND, OH 44114			2444	
			NOTIFICATION DATE	DELIVERY MODE
			04/29/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket1@the patentattorneys.com  
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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/894,642	ABBOTT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joiya M. Cloud	2444	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 January 2009.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 66-82 and 174-185 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 66-82 and 174-185 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 June 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/11/2009, 2/11/2009, 2/11/2009, 2/11/2009,</u><br><u>2/11/2009</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____                          |



***DETAILED ACTION***

This action is responsive to the communication filed on 01/27/2009. Claims 66-82 AND 173-185 are PENDING in this application. Applicant's arguments and amendments filed 01/27/2009 have been carefully considered but they are not deemed fully persuasive. Applicant's arguments are deemed moot in view of the following new grounds of rejection as explained here below, necessitated by Applicant's substantial amendment (i.e., "*a transient physiological user condition ...of a lower level of abstraction*") to the claims which significantly affected the scope thereof.

***Terminal Disclaimer***

Examiner acknowledges the approval of the terminal disclaimer filed 10/20/2008.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 66-82 and 173-185 are rejected under 35 U.S.C. 102(e) as being anticipated by

**Jacobsen et al. US Patent No. 6,198,394 B1).**

**As per claims 66,** Jacobsen discloses a method for a user characterization system executing remotely from a thin client wearable computer to provide information about a current state of a user of a thin client wearable computer (Figure 1 and col. 1, lines 35-53), the user characterization system modeling the current state with multiple state attributes and including state server modules (SSMs) to supply values for the state attributes (col. 3, lines 35-50), state client modules to process values for the state attributes (col. 3, lines 35-50), and an intermediary module to facilitate exchange of state attribute values (col. 15, lines 52-col. 16, lines 1-22), the method comprising:

under control of each SSM, gathering information about the current state of the user, generating values for at least one of the state attributes based on the gathered information, and sending the generated values to the intermediary module (col. 6, lines 21-36, where Jacobsen teaches a soldier unit that gathers the received physiological data from the sensors and transmits it to the media unit in a remote location/medic unit);

under control of each SCM, receiving values for at least one state attribute from the intermediary module and performing processing based on the received values (col. 11, lines 40-50 and col. 13, lines 39-45);

under control of the intermediary module, facilitating exchange of values by, receiving the sent values for the state attributes from the SSMs (col. 11, lines 40-50, col. 12, lines 40-44, col. 13, lines 17-28);

automatically modeling values of the other state attributes based at least in part on the sent values of the state attributes by abstracting a transient physiological user condition derived

from the sent values of the state attributes of a lower level of abstraction (col. 11, lines 40-50, col. 12, lines 40-44, col. 3, lines 57-col. 4, lines 1-10, and col. 13, lines 17-45, Examiner notes that Applicant has provided no explicit definition further limiting the claim regarding a lower level of abstraction, but merely exemplifies the levels of abstraction as heart rate and EKG and location and speed physiological user conditions, see where Jacobsen discloses in the Abstract- heart rate values are abstracted and soldier positioning abstracted from the global positioning module, col. 7, lines 21-31); sending at least some of the received state values and at least some of the modeled other state attribute values to the SCMs (col. 11, lines 40-50, col. 12, lines 40-44, col. 3, lines 57-col. 4, lines 1-10, and col. 13, lines 17-45);

and interacting with the thin client wearable computer in order to provide information about the user or to receive information about the user, the interacting being based at least in part on the modeled other state attribute values, so that the remotely executing user characterization system can obtain and provide information about the current state of the user of the thin client wearable computer (col. 11, lines 40-50, col. 12, lines 40-44, col. 3, lines 57-col. 4, lines 1-10, and col. 13, lines 17-45).

**As per claim 67,** Jacobsen further discloses wherein the thin client wearable computer includes an output device, and wherein the interacting with the thin client wearable computer includes sending information for presentation to the user on the output device (Figure 3, col. 9, lines 20-49 and col. 11, lines 40-50).

**As per claim 68,** Jacobsen further discloses wherein the Information to be sent for presentation to the user is generated by the processing of one of the SCMs, and wherein the

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sending of the information for presentation to the user on the output device is performed on behalf of that SCM (col. 9, lines 20-49 and col. 11, lines 40-50).

**As per claim 69,** Jacobsen further discloses wherein the thin client wearable computer includes an input device, and wherein the interacting with the thin client wearable computer includes receiving information provided by the user via the input device (col. 7, lines 4-12).

**As per claim 70,** Jacobsen further discloses wherein the gathering of the information about the current state of the user by one of the SSMs includes obtaining the received information provided by the user via the input device (col. 7, lines 4-12 and col. 9, lines 20-49).

**As per claim 71,** Jacobsen further discloses wherein the user characterization system executes on a computer remote from the thin client wearable computer, wherein the thin client wearable computer lacks resources accessible to the remote computer, and wherein the interacting with the thin client wearable computer includes receiving a request to access at least one of the resources on behalf of the thin client wearable computer and accessing those resources in response (col. 9, lines 15-20 and col. 10, lines 21-33).

**As per claim 72,** Jacobsen further discloses wherein the at least one resources include processing capabilities of the remote computer, wherein the accessing of those resources includes using the processing capabilities on behalf of the thin client wearable computer, and including sending an indication of results to the thin client wearable computer (col. 9, lines 15-20 and col. 10, lines 21-33).

**As per claim 73,** Jacobsen further discloses wherein the at least one resources are storage capabilities of the remote computer, and wherein the accessing of those resources includes

sending information stored on the storage capabilities to the thin client wearable computer (col. 7, lines 13-23).

**As per claim 74,** Jacobsen further discloses wherein the at least one resources are storage capabilities of the remote computer, and wherein the accessing of those resources includes storing information received from the thin client wearable computer on the storage capabilities (col. 7, lines 13-23 and col. 4, lines 9-20).

**As per claim 75,** Jacobsen further discloses wherein the remote computer has a sensor receiving information about the user of the thin client wearable computer, and wherein the gathering of the information about the current state of the user by at least one of the SSMS includes obtaining information from the sensor (col. 6, lines 45-57).

**As per claim 76,** Jacobsen further discloses wherein the remote computer has an output device that is perceivable by the user of the thin client wearable computer, and wherein the performing of the processing based on the received values by at least one of the SCMs includes presenting information to the user on the output device. (col. 11, lines 40-50 and col. 13, lines 39-45)

**As per claim 77,** Jacobsen further discloses wherein the gathering of the information about the current state of the user by at least one of the SSMS includes obtaining information from at least one sensor that is part of the thin client wearable computer (Figure 1 and col. 6, lines 45-57).

**As per claim 78,** Jacobsen further discloses wherein the performing of the processing based on the received values by at least one of the SCMs includes supplying information to at

least one output device that is part of the thin client wearable computer (Figure 3 and col. 11, lines 40-50 and col. 13, lines 39-45).

**As per claim 79**, Jacobsen further discloses wherein the user characterization system further includes an additional module executing on the thin client wearable computer, and wherein the interacting with the thin client wearable computer includes interacting the additional executing module (col. 11, lines 29-39).

**As per claim 80**, Jacobsen further discloses wherein at least one of the SSMs executes on the thin client wearable computer and communicates with the intermediary module via wireless communication (col. 11, lines 5-13).

**As per claim 81**, Jacobsen further discloses wherein at least one of the SCMs executes on the thin client wearable computer and communicates with the intermediary module via wireless communication (col. 11, lines 5-13)

**As per claim 82**, Jacobsen further discloses wherein at least some of the SSMs are available to supply values for additional state attributes of a current state other than for the user, and wherein the intermediary module additionally sends values for the additional state attributes to SCMs (col. 11, lines 29-39)

**As per claim 174**, Jacobsen teaches further comprising abstracting a transient physiological user condition derived in part from the sent values of the state attributes based on geographic location and speed (col. 14, lines 50-60).

**As per claim 175**, Jacobsen teaches further comprising abstracting a transient physiological user condition derived in part from the sent values of the state attributes based on physical activity to characterize or infer a user's current activity (col. 8, lines 8-16).

**As per claim 176,** Jacobsen teaches further comprising abstracting a transient physiological user condition derived in part from the sent values of the state attributes to characterize an emotional state (col. 4, lines 9-20).

**As per claim 177,** Jacobsen teaches further comprising abstracting a transient physiological user condition derived in part from the sent values of the state attributes based in part on user background information (col. 4, lines 9-20).

**As per claim 178,** Jacobsen teaches further comprising abstracting a transient physiological user condition derived in part from the sent values of the state attributes based in part on user background information pertaining to a demographic classification col. 7, lines 1-17).

**As per claim 179,** Jacobsen teaches further comprising abstracting a transient physiological user condition derived in part from the sent values of the state attributes based in part on user background information pertaining to a predetermined physiological performance constraint (col. 4, lines 9-20).

**As per claim 180,** Jacobsen teaches further comprising abstracting a transient physiological user condition derived in part from the sent values of the state attributes based in part on user background information pertaining to visual acuity (col. 4, lines 9-20).

**As per claim 181,** Jacobsen teaches further comprising abstracting a transient physiological user condition derived in part from the sent values of the state attributes based in part on ambient environmental information (Abstract, col. 8, lines 50-65 and col. 16, lines 9-22).

**As per claim 182,** Jacobsen teaches the method of claim 181, further comprising abstracting a transient physiological user condition derived in part from the sent values of the state attributes based in part on air temperature (Abstract, col. 8, lines 50-65 and col. 16, lines 9-22).

**As per claim 182,** Jacobsen teaches the method of claim 181, further comprising abstracting a transient physiological user condition derived in part from the sent values of the state attributes based in part on air temperature (Abstract, col. 8, lines 50-65 and col. 16, lines 9-22).

**As per claim 183,** Jacobsen teaches method of claim 66, further comprising abstracting a transient physiological user condition derived in part from the sent values of the state attributes based on entities proximal to the user (col. 8, lines 17-20).

**As per claims 184 and 185,** Jacobsen teaches further comprising abstracting the transient physiological condition of exercising and of talking (col. 6, lines 25-29 and col. 2, lines 50 -55).

## ***CONCLUSION***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joiya Cloud whose telephone number is 571-270-1146. The examiner can normally be reached Monday to Friday from on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3922. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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*JMC*

**/William C. Vaughn, Jr./**

**Supervisory Patent Examiner, Art Unit 2444**

**April 9, 2009**